

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IRACING.COM MOTORSPORT SIMULATIONS,
LLC, a Delaware Limited Liability Company,

Plaintiff,

V.

TIM ROBINSON, individually and d/b/a
www.ow-racing.com, www.torn8oalley.com and
www.First-Racing-Sucks.com,

Defendant.

[illegible]

Civil Action No.
05-11639 NG

**DEFENDANT'S
ASSENTED-TO MOTION TO
EXTEND PRE-TRIAL
SCHEDULE DEADLINES**

Defendant Tim Robinson (“Robinson”), with the assent of Plaintiff iRacing.com Motorsport Simulations, LLC (“iRacing”), respectfully requests pursuant to Fed. R. Civ. P. 6(b) that the Court extend certain of the pre-trial deadlines outlined in the January 8, 2009 Electronic Order (the “Electronic Order”). Robinson also requests, without iRacing’s assent, that the Court reschedule the final pretrial conference, presently scheduled for January 21, 2009, until January 28, 2009. As grounds for this request, Robinson states as follows:

1. The Electronic Order set certain of the pre-trial deadlines in the past, including the deadline to serve the *Initial Proposed Findings of Fact & Conclusions of Law*, which deadline was set for January 6, 2009 (two days prior to the entry of the Electronic Order).

2. Counsel for Robinson was at trial in another matter during the week of January 8, 2009, and was unable to communicate with Robinson during that time period.

3. Monday, January 19, 2009, is a court holiday.

4. During the week of January 20-23, 2009, counsel for Robinson is preoccupied with a previously-scheduled legal matter, involving a client arriving on a non-refundable flight from Alabama.

5. Robinson does not object to the Court's acceptance of direct evidence at trial by way of affidavits, as outlined in the Electronic Order.

6. Accordingly, with iRacing's assent, Robinson requests the scheduling order be amended as follows:

<u>Event</u>	<u>Electronic Order Deadline</u>	<u>Proposed New Deadline</u>
Mr. Robinson's Rule 26(a)(3) Pre-trial disclosures	December 22, 2008 (subject to Order granting motion to compel)	January 21, 2009 (served by iRacing on December 22, 2008)
Initial Proposed Findings of Fact & Conclusions of Law <i>From Both Parties</i>	January 6, 2009 & January 14, 2009 (served but not filed)	January 21, 2009 (served but not filed) (served by iRacing on January 12, 2009)
Joint Pre-trial Memo filed	January 14, 2009	January 26, 2009
Marked Responses To Initial Proposed Findings Of Fact And Conclusions Of Law <i>From Both Parties</i>	January 14, 2009 & February 3, 2009 (served and filed)	January 27, 2009 (served and filed)
Final pre-trial conference	January 21, 2009	January 28, 2009 ¹
Trial Brief	January 29, 2009	January 29, 2009 (no change)
Notice of non-consent to affidavits in lieu of direct testimony by motion	January 29, 2009	January 29, 2009 (no change)
List of witnesses, together with the affidavits of each witness whose direct testimony is to be received	February 2, 2009	February 2, 2009 (no change)

¹ Robinson's request to reschedule the final pre-trial conference is without iRacing's assent, as iRacing believes that the pre-trial conference should continue as scheduled. However, should the Court be inclined to grant Robinson's request to reschedule the pre-trial conference, counsel for iRacing is available on January 28, 2009.

by affidavit		
List of depositions to be used at trial in party's case in chief, identifying pages or portions to be used (need not include transcript to be used for impeachment or cross examination)	February 2, 2009	February 2, 2009 (no change)
List of exhibits to be introduced without objection	February 3, 2009	February 3, 2009 (no change)
List of exhibits to be introduced at trial as to which a party has reserved the right to object	February 3, 2009	February 3, 2009 (no change)
Notice of intent to cross examine witnesses whose affidavit has been filed under paragraph 5(a)	February 4, 2009	February 4, 2009 (no change)
Trial	February 5, 2009	February 5, 2009 (no change)

DATED: January 14, 2009

Respectfully submitted,

Tim Robinson

By his attorney,

/S/ Joseph F. Ryan
 Joseph F. Ryan (BBO# 435720)
 Lyne Woodworth & Evarts LLP
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 Boston, Massachusetts 02109
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Assented to by,

iRacing.com Motorsport Simulations, LLC
By its attorneys,

/s/ Michael G. Andrews

Irwin B. Schwartz (BBO# 548763)
Michael G. Andrews (BBO# 663452)
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Certification Under Local Rule 7.1(a)(2)

I, Joseph F. Ryan, attorney for Defendant Tim Robinson, hereby certify that I complied with Local Rule 7.1 in that I conferred with Plaintiff's counsel by electronic mail and telephone on January 14, 2009, in a good faith attempt to narrow and/or resolve the scheduling issues addressed in this motion. Plaintiff assented to all of Defendant's requests, with the exception of the request to reschedule the final pre-trial conference.

/s/ Joseph F. Ryan

Joseph F. Ryan

Certificate of Service

I, Joseph F. Ryan, attorney for Defendant Tim Robinson, hereby certify that on this 14th day of January 2009, I filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record for iRacing.

/s/ Joseph F. Ryan

Joseph F. Ryan